



ROBINSON
GRAY

Litigation + Business

SAMUEL J. WELLBORN

DIRECT 803 231.7829 DIRECT FAX 803 231.7878

swellborn@robinsongray.com

April 16, 2021

Via Electronic Mail: ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings
Clerk, Court of Appeals of South Carolina
1220 Senate Street
P.O. Box 11629
Columbia, South Carolina 29211

RE: Randy and Cheryl Gilchrist v. Duke Energy Carolinas, LLC
SCPSC Docket No. 2020-147-E
Appellate Case No. 2020-001445

Ms. Kitchings:

Attached for filing please find Respondent's Return to Appellants' Motion to Remand Case to Public Service Commission along with Proof of Service.

Kind regards,

Sam Wellborn

SJW:tch

Enclosure

cc w/enc: Randy and Cheryl Gilchrist (via U.S. Mail)
S.C. Public Service Commission (via electronic filing)
Heather Shirley Smith, Deputy General Counsel (via email)
Katie M. Brown, Counsel (via email)

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

South Carolina Public Service Commission Docket No. 2020-147-E

Appellate Case No. 2020-001445

Randy and Cheryl Gilchrist.....Appellants,

v.

Duke Energy Carolinas, LLCRespondent.

**RESPONDENT’S RETURN TO
APPELLANTS’ MOTION TO REMAND CASE
TO PUBLIC SERVICE COMMISSION**

Respondent Duke Energy Carolinas, LLC (the “Company”) submits this return opposing Appellants’ Motion to Remand (“Motion”) this case to the South Carolina Public Service Commission (the “Commission”). Remand to the Commission is neither warranted nor appropriate in this case. As recited in Appellants’ Motion, Appellants filed a Complaint, which the Commission dismissed; Appellants then sought reconsideration or rehearing, which the Commission denied; and Appellants appealed the Commission’s final order. There is no procedural defect that would warrant remanding this case to the Commission.

As explained in the Company’s respondent’s brief to be filed in this appeal, the Commission has reviewed and authorized the metering options made available by the Company,

including the default smart meter option, as well as the opt out alternative that customers may elect should they oppose being served by a smart meter. Although Appellants are philosophically opposed to “opting out” of being served by a smart meter, such does not rise to the level of a justiciable controversy, nor a Commission-jurisdictional violation as required by S.C. Code Ann. § 58-27-1940. For that reason, the Commission appropriately exercised its statutorily granted authority to dismiss the complaint without the need for a hearing. As succinctly stated by the Commission, “[the Company] has not violated any statute, nor Commission rule or regulation. Therefore, there is no relief available to the Complainants in this case, and the case must be dismissed.” Order No. 2020-562 at 3-4, Docket No. 2020-147-E (Aug. 24, 2020).

For the reasons explained herein, the Company requests that the Court deny Appellants’ Motion.

Respectfully submitted,

s/Samuel J. Wellborn

Frank R. Ellerbe, III, Esquire (Bar No. 1866)
 Samuel J. Wellborn, Esquire (Bar No. 101979)
 Robinson Gray Stepp & Laffitte, LLC
 1310 Gadsden Street
 Columbia, South Carolina 29201
 803.929.1400

Attorneys for Respondent
 Duke Energy Carolinas, LLC

Columbia, South Carolina
 April 16, 2021

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

South Carolina Public Service Commission Docket No. 2019-290-WS

Appellate Case No. 2020-001445

Randy and Cheryl Gilchrist.....Appellants,

v.

Duke Energy Carolinas, LLCRespondent.

PROOF OF SERVICE

This is to certify that I, Toni C. Hawkins, a paralegal with the law firm of Robinson Gray Stepp & Laffitte, LLC have this day served a copy of Respondent's Return to Appellants' Motion to Remand Case to Public Service Commission by placing a copy of same in the United States Mail, postage prepaid, to Appellants (as addressed below) and by electronically filing a copy with the South Carolina Public Service Commission.

Randy and Cheryl Gilchrist
3010 Lake Keowee Lane
Seneca, SC 29672

South Carolina Public Service Commission
(via electronic filing)

Dated at Columbia, South Carolina, this 16th day of April, 2021.

Toni C. Hawkins